



State of Wisconsin  
2013 - 2014 LEGISLATURE

In 10-28-13  
500N



LRB-2237/2  
MED:jld:jm

72

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regan

4  
1 AN ACT to renumber and amend 448.05 (2); to amend 448.05 (1) (d) and 448.05  
2 (6) (a); and to create 448.04 (1) (bm), 448.05 (2) (a) 3. to 5., 448.05 (2) (c), 448.05  
3 (2) (d) and 448.05 (6) (at) of the statutes; relating to: licensure of physicians  
4 and granting rule-making authority. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

1ns  
1-5 ✓  
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 448.04 (1) (bm) ✓ of the statutes is created to read:  
6 448.04 (1) (bm) ~~Restricted~~ Resident educational ← (I) license to practice medicine and surgery. 1. The  
7 board may grant a ~~restricted~~ e resident educational license to practice medicine and surgery as a resident  
8 enrolled in a postgraduate training program (to an applicant) who satisfies the  
9 requirements under s. 448.05 (2) (a) 1., 2., and 5. 1ns  
1-7 ✓

\*\*\*\*NOTE: Please review this provision and the cross-references and confirm that they are correct.

1 2. Subject to subd. 3., a license issued under this paragraph is valid for one year  
2 except that the board may allow a licensee to renew a license in accordance with rules  
3 promulgated by the board. (ins 2-1) ✓

4 3. A license issued under this paragraph remains valid only while the licensee  
5 is actively engaged in the practice of medicine and surgery in the postgraduate  
6 training program ✓ under subd 1(c) & (d) and is lawfully entitled to work in the United States. (ins 2-6) ✓

7 4. The holder of a license issued under this paragraph may engage in the  
8 practice of medicine and surgery only in connection with his or her duties under the  
9 postgraduate training program ✓ or under conditions approved by the director of the  
10 program. (under subd 1(c) & (d))

11 SECTION 2. 448.05 (1) (d) of the statutes is amended to read:

12 448.05 (1) (d) Be found qualified by three-fourths of the members of the board,  
13 except that an applicant for a temporary license (or certificate) under s. 448.04 (1) (b) 1. and 3., (e),  
14 and (g) or a restricted license under s. 448.04 (1) (bm) must be found qualified by 2  
15 members of the board. (or (f) score) (strike) (resident educational) (ins 2-15) ✓

\*\*\*NOTE: This provision allows a restricted license to be granted by two members of the MEB, like a temporary license, instead of three-fourths of the board, which is required for a regular license. I thought this change should be made so that restricted licenses are more similar to temporary licenses, but if you would like to require three-fourths approval for the restricted license, let me know and I can delete this change.

16 SECTION 3. 448.05 (2) of the statutes is renumbered 448.05 (2) (a) (intro.) and  
17 amended to read:

18 448.05 (2) (a) (intro.) An Except as provided in par. (b), an applicant for any  
19 class of license to practice medicine and surgery, other than a restricted license under

9  
1 s. 448.04 (1) (bm), must supply evidence satisfactory to the board that of all of the  
2 following:

3 1. That the applicant is a graduate of and possesses a diploma from a medical  
4 or osteopathic college approved by the board and.

5 2. That the applicant has completed postgraduate training of 12 months in a  
6 facility approved by the board.

7 (b) If an applicant is a graduate of a foreign medical school which that has not  
8 been approved by the board, and if such applicant has had postgraduate training in  
9 this country in a 12-month program approved by the board satisfies the  
10 requirements under par. (a) 2. to 5. or has had other professional experience which  
11 that the board deems has given the applicant the education and training  
12 substantially equivalent, and if such applicant has passed the examinations given  
13 by the educational council for foreign medical graduates or its successors, the board  
14 may make such additional inquiry including a personal interview as satisfies it that  
15 the applicant has had such education and training. If a majority of the board is so  
16 satisfied, the applicant may then be admitted to examination for a license to practice  
17 medicine and surgery. If an applicant is a graduate of a foreign medical school that  
18 has not been approved by the board, and such foreign medical school requires either  
19 social service or internship or both of its graduates, and if such applicant has not  
20 completed such requirements but has completed a 12-month supervised clinical  
21 training program under the direction of a medical school approved by the board and  
22 has complied with all other requirements of this subsection for graduates of foreign  
23 medical schools not approved by the board, the applicant may then be admitted to  
24 examination for a license to practice medicine and surgery.

9  
\*\*\*\*NOTE: Please review this provision carefully. This is structured so that an applicant who graduated from a foreign medical school not approved by the MEB would otherwise have to satisfy all of the other requirements required for other applicants. However, the language in current law appears to allow the MEB to exempt foreign medical school graduates from these requirements if they have equivalent professional experience. Please let me know if this language should be further modified.

Current law also appears to distinguish between applicants from foreign medical schools who have had 12 months of postgraduate training vs. those who have completed a 12-month supervised clinical training program. Let me know if you would not like to maintain this distinction, or if this language about 12-month clinical programs should be modified.

1       **SECTION 4.** 448.05 (2) (a) 3. to 5. of the statutes are created to read:

2       448.05 (2) (a) 3. Subject to par. (d), that the 12 months of postgraduate training  
3       under subd. 2. were completed in 12 consecutive months.

4       4. Subject to par. (d), that the applicant is in good standing with the  
5       postgraduate training program in which the applicant completed the training under  
6       subd. 2. or, if the applicant has left the program, that the applicant left the program  
7       in good standing.

\*\*\*\*NOTE: Please review this provision. Does this accomplish your intent?

8       5. That the applicant, if he or she has not already successfully completed  
9       completed a postgraduate training program, is currently enrolled in a postgraduate  
10       training program.

\*\*\*\*NOTE: Please review this provision. Does this accomplish your intent?

11       **SECTION 5.** 448.05 (2) (c) of the statutes is created to read:

12       448.05 (2) (c) An applicant for a restricted <sup>resident educational</sup> license under s. 448.04 (1) (bm) shall  
13       provide the board with all of the following:

14       1. Written confirmation from the medical school or other institution sponsoring  
15       the postgraduate training program in which the applicant is enrolled confirming  
16       that the applicant has been appointed to a position in the program.

17       2. Evidence that the applicant is a U.S. citizen or is otherwise lawfully entitled  
18       to work in the United States.

9  
1 **SECTION 6.** 448.05 (2) (d) of the statutes is created to read:

2 448.05 (2) (d) The board may promulgate rules specifying circumstances in  
3 which the board, in cases of hardship or in cases in which the applicant possesses a  
4 medical license issued by another jurisdiction, may grant a waiver from the  
5 requirements under par. (a) 3. and 4. The board may grant such a waiver in  
6 accordance with those rules.

\*\*\*\*NOTE: As I understood it, the waiver would be for people who had to take some kind of leave due to hardship. Does this language capture the intent? I also had it apply to the requirement under subd. 4. that the applicant left a program in good standing. Let me know if the hardship waiver should not apply to this requirement.

This provision also allows the MEB to promulgate rules to exempt physicians who are licensed in other states from these requirements. It is my understanding that the concept of "board eligible/board certified" refers to physicians who are eligible to take an exam for, or certified in, a particular medical specialty, and not their general MD/DO license, so I simply referred to applicants licensed in other jurisdictions.

7 **SECTION 7.** 448.05 (6) (a) <sup>x</sup> of the statutes is amended to read:

8 448.05 (6) (a) Except as provided in pars. (am) ~~and~~, (ar), and (at), the board  
9 shall examine each applicant it finds eligible under this section in such subject  
10 matters as the board deems applicable to the class of license or certificate which the  
11 applicant seeks to have granted. Examinations may be both written and oral. In lieu  
12 of its own examinations, in whole or in part, the board may make such use as it deems  
13 appropriate of examinations prepared, administered, and scored by national  
14 examining agencies, or by other licensing jurisdictions of the United States or  
15 Canada. The board shall specify passing grades for any and all examinations  
16 required.

17 **SECTION 8.** 448.05 (6) (at) <sup>x</sup> of the statutes is created to read:

18 448.05 (6) (at) When examining an applicant for a license to practice medicine  
19 and surgery under par. (a), the board may only use examinations prepared,  
20 administered, and scored by national examining agencies, except that the board may

1 interview an individual applicant as needed to determine information specific to that  
2 applicant.

3 **SECTION 9. Initial applicability.**

4 (1) The treatment of section 448.05 (6) (a) and (at) of the statutes first applies  
5 to an applicant who is admitted to examination for a license to practice medicine and  
6 surgery by the medical examining board under section 448.05 (2) of the statutes, as  
7 affected by this act, on the effective date of this subsection.

8 (2) The <sup>+ treatment</sup>renumbering and amendment of section 448.05 (2) of the statutes and  
9 the creation of section 448.05 (2) (a) 3. to 5. of the statutes first apply <sup>first applies</sup> to an application  
10 for a license to practice medicine and surgery under section 448.05 (2) of the statutes,  
11 as affected by this act, that is received by the medical examining board on the  
12 effective date of this subsection.

\*\*\*\*NOTE: I was not entirely sure how the initial applicability should work. Please  
review these and let me know if further changes are needed.

13 **SECTION 10. Effective date.**

14 (1) This act takes effect on the first day of the 12th month beginning after  
15 publication.

\*\*\*\*NOTE: Because of the rule making required under the bill, I have included a  
delayed effective date. I chose one year, but let me know if you would like something  
different.

16 (END)

d-note  
↓

**2013-2014 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2237/P2ins  
MED:.....

INSERT 1-5

*auto ref A (to Ins 2-6)*  
1        **SECTION 1.** 448.015 (4) (am) 4. of the statutes is created to read:

2        448.015 (4) (am) 4. Failure to surrender a resident educational license when  
3        required under s. 448.04 (1) (bm) 3. ✓

      \*\*\*\*NOTE: I included language here providing that a failure to surrender a license when required constitutes unprofessional conduct. However, this seems like it may be somewhat inconsistent with ss. 440.19 ✓ and 448.02 (5) ✓, stats. These sections suggest that the effect of a surrender is to allow one to *avoid* professional discipline and that DSPS and Boards may refuse to accept a surrender if a complaint has been filed, presumably because disciplinary proceedings cannot commence if the license has been surrendered. Therefore, if a licensee is required to surrender his or her license, could (or should) he or she avoid professional discipline by doing so and, if so, is that consistent with the intent? ✓

4        **SECTION 2.** 448.02 (10) ✓ of the statutes is created to read:

5        448.02 (10) DISCONTINUANCE OF POSTGRADUATE EDUCATION. ✓ If the holder of a  
6        license granted under the authority of s. ✓ 448.05 (2) (a) 2. b. subsequently  
7        discontinues *his or her* the postgraduate educational *e training* program at any time prior to the  
8        completion of the program, the program director shall notify the ✓ board, providing full  
9        details of the cause of the discontinuance and the holder's plans, if any, for completion  
10       of the postgraduate training program. ✓ The board shall review the matter and may  
11       take any appropriate action. ✓

INSERT 1-7

12       *NO*  
12       *A* to an applicant who satisfies all of the following:

13       a. The applicant is a graduate of and possesses a diploma from a medical or  
14       osteopathic college that is accredited by the ✓ Liaison Committee on Medical  
15       Education, the American Osteopathic Association, ✓ or a successor organization and  
16       that is approved by the board. ✓

17       b. The applicant has received credit for 12 ✓ months of postgraduate training in  
18       one or more postgraduate training programs ✓ accredited by the Accreditation Council

↓

for Graduate Medical Education, the American Osteopathic Association, or a successor organization.

12 \*\*\*NOTE: I assumed for this provision that the applicant could have completed the 24 months of training in more than one program. Is that correct?

c. The applicant is currently enrolled in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization.

\*\*\*NOTE: I had to restructure this provision because of the changes that were made to s. 448.05 (2), stats. I instead put the requirements for the resident educational license directly in this provision. Let me know if any changes are needed here.

INSERT 2-1

NO  
H and may be renewed for additional one-year terms while the licensee is enrolled in the postgraduate training program under subd. 1. c.

INSERT 2-6

NO  
H If at any time a license no longer remains valid as provided in this subdivision, the licensee shall surrender his or her license.

\*\*\*NOTE: Please review this language. I tried to draft this more consistent with other language in the DSPS chapters dealing with surrender of a license. However, see the note under SECTION 1.

← autoref Al from insert 1-5)

INSERT 2-15

\*\*\*NOTE: The supplied language also appeared to be adding in a cross-reference here to s. 448.04 (1) (i), stats., which relates to certificates to practice respiratory care issued by the MEB, and so I made this change. I assume that this change is simply to be consistent with other provisions in subchapter II of chapter 448 and is otherwise unrelated to the other changes in the bill regarding physician licensure. If this change was not intended or other changes are needed here, let me know.

SECTION 3. 448.05 (2) of the statutes is repealed and recreated to read:

448.05 (2) LICENSE TO PRACTICE MEDICINE AND SURGERY. (a) Except as provided in pars. (b) and (c), an applicant for any class of license to practice medicine and surgery, other than a resident educational license under s. 448.04 (1) (bm), must supply evidence satisfactory to the board of all of the following:





\*\*\*\*NOTE: There are certain kinds of temporary licenses under s. 448.04 (1) (b) 2. and 3. ✓ Are those individuals also subject to the requirements in this subsection? If the answer is not yes, then we should add a cross-reference here to except those licensed under s. 448.04 (1) (b) 2. and 3. ✓ from the requirements of this subsection.

1           1. That the applicant is a graduate of and possesses a diploma from a medical  
2 or osteopathic college that is accredited by the Liaison Committee on Medical  
3 Education, the American Osteopathic Association, or a successor organization and  
4 that is approved by the board. ✓

5           2. That the applicant satisfies one of the following:

6           a. The applicant has successfully completed 24 months of postgraduate  
7 training ✓ in one or more programs accredited by the Accreditation Council for  
8 Graduate Medical Education, the American Osteopathic Association, or a successor  
9 organization.

✓ \*\*\*\*NOTE: I assumed for this provision that the applicant could have completed the  
24 months of training in more than one program. If so, I would assume that, under ✓ subd.  
3., the applicant need only be in good standing with the program in which the applicant  
was most recently enrolled. Is that correct?

10           b. The applicant is currently enrolled in a postgraduate training program  
11 accredited by the Accreditation Council for Graduate Medical Education, ✓ the  
12 American Osteopathic Association, ✓ or a successor organization; the applicant has  
13 received credit for 12 consecutive months of postgraduate training in that program;  
14 and the applicant has received an unrestricted endorsement from the postgraduate  
15 educational program director that includes confirmation that the applicant is  
16 expected to continue in the program and complete at least 24 ✓ months of postgraduate  
17 training.

18           3. That the applicant is in good standing with the postgraduate training  
19 program completed by the applicant under subd. 2. a. ✓ or in which the applicant is  
20 currently enrolled under subd. 2. b. ✓ If the applicant completed training under subd.

↓

1 2. a. <sup>✓</sup>in more than one program, the applicant must be in good standing with the  
2 program in which the applicant was most recently enrolled.

3 4. That the applicant has no material restrictions on or past discipline  
4 involving a license to practice medicine and surgery that was issued to the applicant  
5 in any other jurisdiction. <sup>✓</sup>

\*\*\*\*NOTE: Does this mean to say that, if a licensee is from another state, he or she  
may never be licensed in Wisconsin if he or she has ever had any past discipline? <sup>✓</sup>

6 (b) Except as provided in par. (d), <sup>✓</sup>an applicant for a license to practice medicine  
7 and surgery who is a graduate of a foreign medical school must supply evidence  
8 satisfactory to the board of all of the following: <sup>✓</sup>

9 1. That the applicant is a graduate of and possesses a diploma from a foreign  
10 medical school credentialed by an agency accepted by the board. <sup>✓</sup>

11 2. That the applicant has obtained certification by the Educational Council for  
12 Foreign Medical Graduates or a successor organization. <sup>✓</sup>

13 3. That the applicant has passed all steps of the <sup>✓</sup>United States Medical  
14 Licensing Examination administered by the <sup>✓</sup>National Board of Medical Examiners  
15 and the Federation of State Medical Boards, <sup>✓</sup>or their successor organizations.

16 4. That the applicant has successfully completed 24 <sup>✓</sup>months of postgraduate  
17 training in one or more programs accredited by the Accreditation Council for  
18 Graduate Medical Education <sup>✓</sup>or the American Osteopathic Association <sup>✓</sup>or a successor  
19 organization.

\*\*\*\*NOTE: Does this mean that foreign grads won't be able to obtain any type of  
license until they complete their second year of residency? (As currently drafted, the  
resident educational license would not be available to foreign grads. <sup>Q</sup>Let me know if this  
is incorrect, or if the resident educational license provision should be modified to make  
it available to foreign grads.

20 5. That the applicant is in good standing with the postgraduate training  
21 program in which the applicant completed the training under subd. 4. <sup>✓</sup>or, if the



<sup>^</sup> without a waiver under par. (c), <sup>✓</sup>

I believe

\*

1 applicant completed the training in more than one program, that the applicant is in  
2 good standing with the program in which the applicant was most recently enrolled.

3 6. That the applicant has no material restrictions on or past discipline  
4 involving a license to practice medicine and surgery that was issued to the applicant  
5 in any other jurisdiction.

\*\*\*\*NOTE: Does this mean to say that, if a licensee is from another jurisdiction, he  
or she may never be licensed in Wisconsin if he or she has ever had any past discipline? ✓

6 (c) The board may promulgate rules specifying circumstances in which the  
7 board, in cases of hardship or in cases in which the applicant possesses a medical  
8 license issued by another jurisdiction, may grant a waiver from any requirement  
9 under par. (a) or (b). ✓ The board may grant such a waiver in accordance with those  
10 rules.

11 (d) An applicant for a restricted license under s. 448.04 (1) (bm) ✓ shall provide  
12 the board with all of the following:

13 1. Written confirmation from the medical school or other institution sponsoring  
14 the postgraduate training program in which the applicant is enrolled confirming  
15 that the applicant has been appointed to a position in the program. ✓

16 2. Evidence that the applicant is a U.S. citizen or is otherwise lawfully entitled  
17 to work in the United States. ✓

(end ins 2-15)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2237/P2dn

MED:.....

date

jld

I drafted this /P2 version based on the instructions provided to me. However, the instructions did not show what was being stricken from or scored into current law, so please review this draft carefully, including the embedded notes, to make sure I made each intended change to current law.

Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: michael.duchek@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2237/P2dn  
MED:jld:jf

October 29, 2013

I drafted this /P2 version based on the instructions provided to me. However, the instructions did not show what was being stricken from or scored into current law, so please review this draft carefully, including the embedded notes, to make sure I made each intended change to current law.

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## **STATE OF WISCONSIN**

Department of Safety and Professional Services  
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### **MEDICAL EXAMINING BOARD LICENSING COMMITTEE**

**Room 121A, 1400 East Washington Avenue, Madison**

**Contact: Tom Ryan (608) 266-2112**

**November 20, 2013**

*The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.*

### **AGENDA**

**12:00 P.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING**

#### **OPEN SESSION – CALL TO ORDER – ROLL CALL**

- A.      Adoption of Agenda (1-2)**
- B.      Approval of Minutes – October 16, 2013 (3-4)**
- C.      Administrative Matters**
  - 1. Election of Officers
- D.      LRB 2237 – Discussion (5-14)**
- E.      Administrative and Visiting Professor Licenses - Discussion**

#### **ADJOURNMENT**

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**LICENSURE COMMITTEE  
MEDICAL EXAMINING BOARD  
MEETING MINUTES  
OCTOBER 16, 2013**

**PRESENT:** Timothy Swan, Gene Musser, Timothy Westlake

**EXCUSED:** Kenneth Simons

**STAFF:** Tom Ryan, Executive Director; Joshua Archiquette, Bureau Assistant; and other Department staff

**CALL TO ORDER**

Tom Ryan, Executive Director; called the meeting to order at 1:03 a.m. A quorum of three (3) members was confirmed.

**ADOPTION OF AGENDA**

**MOTION:** Swan moved, seconded by Westlake, to adopt the agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES**

**MOTION:** Swan moved, seconded by Westlake, to approve the minutes from August 14, 2013 as published. Motion carried unanimously.

**MOTION:** Swan moved, seconded by Westlake, to approve the minutes from August 23, 2013 as published. Motion carried unanimously.

The Committee discussed upcoming changes in legislation regarding medical licensure, but took no action.

**ADJOURNMENT**

**MOTION:** Swan moved, seconded by Westlake, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:23 p.m.



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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

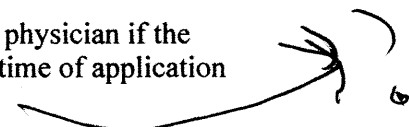
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MED:jld:jf

October 29, 2013

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Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: michael.duchek@legis.wisconsin.gov

**~~NRS 630.259~~ License as administrative physician.**

1. A person may apply to the Board to be licensed as an administrative physician if the person meets all of the statutory requirements for licensure in effect at the time of application ~~except the requirements of paragraph (d) of subsection 2 of NRS 630.160.~~ 

2. A person who is licensed as an administrative physician pursuant to this section:

(a) May not engage in the practice of clinical medicine;

(b) Shall comply with all of the statutory requirements for continued licensure pursuant to this chapter; and

(c) Shall be deemed to hold a license to practice medicine in an administrative capacity only.

(Added to NRS by 2003, 1884; A 2005, 2515)

*for visiting physicians*  
**~~NRS 630.2645~~ Restricted license for ~~graduate of foreign medical school~~ to teach, research or practice medicine at medical research facility or medical school; expiration, renewal and modification of restricted license.**

1. Except as otherwise provided in ~~NRS 630.161~~, the Board may issue a restricted license to teach, research or practice medicine to a person if:

(a) The person:

(1) Submits to the Board:

(I) Proof that the person is a graduate of a ~~foreign~~ <sup>US or Canadian</sup> medical school, as provided in ~~NRS 630.195~~; *approved by MEB.*

(II) Proof that the person teaches, researches or practices medicine ~~outside the United States~~; and

(III) Any other documentation or proof of qualifications required by the Board; and

(2) Intends to teach, research or practice medicine at a medical <sup>education</sup> facility, medical research facility or medical school in this State. *with approval of Dean or President*

(b) Any other documentation or proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A person who applies for a restricted license pursuant to this section is not required to take or pass a written examination concerning his or her qualifications to practice medicine.

## Duchek, Michael

**From:** Duchek, Michael  
**Sent:** Thursday, December 12, 2013 11:39 AM  
**To:** Scholz, AJ; timothy.westlake@gmail.com  
**Subject:** Physician licensure draft

Call 12/12 from  
Dr. Westlake

I had a chance to further review the materials Dr. Westlake left and current law and want to offer the following few thoughts:

1. As I now understand that the resident educational *license* is to replace the temporary educational *permit* under s. 448.04 (1) (c), I would note that this might have some other implications. Currently, the statutes in ch. 448 seem to draw a distinction between a license and a permit and you can see this distinction is significant in a few places though I'm not sure the statutes always use the right terms in the right places. But in the statutes, ss. 448.01 (5) and 990.01 (28), "physician" is defined as someone who has a *license* and there are a number of provisions that apply to people with a license that do not appear to apply to those with a permit. It would seem, therefore, that changing the name from "temporary educational *permit*" to "resident educational *license*" might have additional implications for various purposes within ch. 448 and beyond. One way to avoid this might be to change the name from "resident educational license" to "resident educational permit." *Do want license, not permit. They are doctors too.*
2. Another request has been to allow the MEB to grant an administrative physician license. As I would see drafting this, those holding an administrative physician license couldn't practice medicine and surgery, as defined in s. 448.01 (9). Nonetheless, they could fall into the general definitions of "physician" described above and may or may not fall into various other definitions of "physician" throughout the statutes (unless we amend those definitions). There are almost 1,000 uses of the term "physician" in the statutes, and while I'm sure in a lot of cases this simply wouldn't matter, there may be cases where it might make a difference whether an administrative physician licensee is considered a "physician" and we could try to address this somehow. *Only difference is can't practice Medicine & surgery*
3. Given that currently, a lot of details are in the rules and the bill as currently drafted has only a 12 month delayed effective date, will the MEB need emergency rulemaking authority (which I can give the MEB in the bill if necessary) in order to put new rules into place? *OK to add.*

I also just thought I'd write up a quick rundown of what is happening in the bill and how it affects various licenses, with a few questions:

- 448.04 (1) (a) – Unrestricted license. Requirements are specified under s. 448.05 (2) (a) to (c), as revised under the bill.
- 448.04 (1) (b) 1. – Temporary license – This is someone who has completed the requisite number of months of training and the examinations (USMLE?) but is waiting for a date for the board to examine the person? *Is anything needed to clean this provision up due to other changes in the bill or is it still accurate?*
- 448.04 (1) (b) 2. – Visiting foreign grad. temporary license – to be replaced by special temporary license which will have some expanded availability. *See also s. 448.065, which I will have to deal with in the draft.*  
*1 yr. expiration. May be renewed at discretion of bd.*  
*Will check*
- 448.04 (1) (b) 3. – Camp/substitute license – not affected by bill.
- 448.04 (1) (c) – Temporary educational permit – to be replaced by resident educational license/permit (described above, in bill currently as 448.04 (1) (bm)).
- NEW – administrative license (see above)

So I just wanted to note these issues and get your thoughts at least on # 1 and 3 above and the stuff in italics above. Perhaps someone at DSPS might want to review this stuff as well and if so I'd be happy to talk to them.

I will be around today and should be around tomorrow, so feel free to call as well.

**Mike Duchek**  
**Legislative Attorney**  
**Wisconsin Legislative Reference Bureau**  
**(608) 266-0130**



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 **AN ACT** *to amend* 448.05 (1) (d) and 448.05 (6) (a); *to repeal and recreate*  
2 448.05 (2); and *to create* 448.015 (4) (am) 4., 448.02 (10), 448.04 (1) (bm) and  
3 448.05 (6) (at) of the statutes; **relating to:** licensure of physicians and granting  
4 rule-making authority.

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***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

5 **SECTION 1.** 448.015 (4) (am) 4. of the statutes is created to read:  
6 448.015 (4) (am) 4. Failure to surrender a resident educational license when  
7 required under s. 448.04 (1) (bm) 3.

\*\*\*\*NOTE: I included language here providing that a failure to surrender a license when required constitutes unprofessional conduct. However, this seems like it may be somewhat inconsistent with ss. 440.19 and 448.02 (5), stats. These sections suggest that the effect of a surrender is to allow one to *avoid* professional discipline and that DSPS and Boards may refuse to accept a surrender if a complaint has been filed, presumably

because disciplinary proceedings cannot commence if the license has been surrendered. Therefore, if a licensee is required to surrender his or her license, could (or should) he or she avoid professional discipline by doing so and, if so, is that consistent with the intent?

1        **SECTION 2.** 448.02 (10) of the statutes is created to read:

2        **448.02 (10) DISCONTINUANCE OF POSTGRADUATE EDUCATION.** If the holder of a  
3        license granted under the authority of s. 448.05 (2) (a) 2. b. subsequently  
4        discontinues his or her postgraduate training program at any time prior to the  
5        completion of the program, the program director shall notify the board, providing full  
6        details of the cause of the discontinuance and the holder's plans, if any, for completion  
7        of the postgraduate training program. The board shall review the matter and may  
8        take any appropriate action.

9        **SECTION 3.** 448.04 (1) (bm) of the statutes is created to read:

10       **448.04 (1) (bm) Resident educational license to practice medicine and surgery.**

11       1. The board may grant a resident educational license to practice medicine and  
12       surgery to an applicant who satisfies all of the following:

13       a. The applicant is a graduate of and possesses a diploma from a medical or  
14       osteopathic college <sup>that</sup> ~~that is accredited by the Liaison Committee on Medical~~  
15       ~~Education, the American Osteopathic Association, or a successor organization and~~  
16       ~~that is approved by the board.~~

17       ~~b. The applicant has received credit for 12 months of postgraduate training in~~  
18       ~~one or more postgraduate training programs accredited by the Accreditation Council~~  
19       ~~for Graduate Medical Education, the American Osteopathic Association, or a~~  
20       ~~successor organization.~~

\*\*\*\*NOTE: I assumed for this provision that the applicant could have completed the 12 months of training in more than one program. Is that correct?

1                                   has been accepted                                   ~~in the state~~  
2           c. The applicant ~~is currently enrolled~~ in a postgraduate training program  
3           accredited by the Accreditation Council for Graduate Medical Education, the  
4           American Osteopathic Association, or a successor organization.

      \*\*\*\*NOTE: I had to restructure this provision because of the changes that were made  
to s. 448.05 (2), stats. I instead put the requirements for the resident educational license  
directly in this provision. Let me know if any changes are needed here.

4           2. Subject to subd. 3., a license issued under this paragraph is valid for one year  
5           and may be renewed for additional one-year terms while the licensee is enrolled in  
6           the postgraduate training program under subd. 1. c.

7           3. A license issued under this paragraph remains valid only while the licensee  
8           is actively engaged in the practice of medicine and surgery in the postgraduate  
9           training program under subd. 1. c. and is lawfully entitled to work in the United  
10          States. ~~If at any time a license no longer remains valid as provided in this~~  
11          ~~subdivision, the licensee shall surrender his or her license.~~

      \*\*\*\*NOTE: Please review this language. I tried to draft this more consistent with  
other language in the DSPS chapters dealing with surrender of a license. However, see  
the note under SECTION 1.

12          4. The holder of a license issued under this paragraph may engage in the  
13          practice of medicine and surgery only in connection with his or her duties under the  
14          postgraduate training program under subd. 1. c.

REPEAL 448.04 1c (TEP)

15          SECTION 4. 448.05 (1) (d) of the statutes is amended to read:

16               448.05 (1) (d) Be found qualified by three-fourths of the members of the board,  
17               except that an applicant for a temporary license or certificate under s. 448.04 (1) (b)  
18               1. and 3., (e), and (g), or (i) or a resident educational license under s. 448.04 (1) (bm)  
19               must be found qualified by 2 members of the board.

      \*\*\*\*NOTE: The supplied language also appeared to be adding in a cross-reference  
here to s. 448.04 (1) (i), stats., which relates to certificates to practice respiratory care  
issued by the MEB, and so I made this change. I assume that this change is simply to be  
consistent with other provisions in subchapter II of chapter 448 and is otherwise



unrelated to the other changes in the bill regarding physician licensure. If this change was not intended or other changes are needed here, let me know.

**SECTION 5.** 448.05 (2) of the statutes is repealed and recreated to read:

**448.05 (2) LICENSE TO PRACTICE MEDICINE AND SURGERY.** (a) Except as provided in pars. (b) and (c), an applicant for any class of license to practice medicine and surgery, other than a resident educational license under s. 448.04 (1) (bm), must supply evidence satisfactory to the board of all of the following:

\*\*\*\*NOTE: There are certain kinds of temporary licenses under s. 448.04 (1) (b) 2. and 3. Are those individuals also subject to the requirements in this subsection? If the answer is not yes, then we should add a cross-reference here to except those licensed under s. 448.04 (1) (b) 2. and 3. from the requirements of this subsection.

1. That the applicant is a graduate of and possesses a diploma from a medical or osteopathic college that is accredited by the Liaison Committee on Medical Education, the American Osteopathic Association, or a successor organization and that is approved by the board.

2. That the applicant satisfies one of the following:

a. The applicant has successfully completed 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization.

\*\*\*\*NOTE: I assumed for this provision that the applicant could have completed the 24 months of training in more than one program. If so, I would assume that, under subd. 3., the applicant need only be in good standing with the program in which the applicant was most recently enrolled. Is that correct?

b. The applicant is currently enrolled in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization; the applicant has received credit for 12 consecutive months of postgraduate training in that program; and the applicant has received an unrestricted endorsement from the postgraduate

1 educational program director that includes confirmation that the applicant is  
2 expected to continue in the program and complete at least 24 months of postgraduate  
3 training.

4 ~~3. That the applicant is in good standing with the postgraduate training~~  
5 ~~program completed by the applicant under subd. 2. a. or in which the applicant is~~  
6 ~~currently enrolled under subd. 2. b. If the applicant completed training under subd.~~  
7 ~~2. a. in more than one program, the applicant must be in good standing with the~~  
8 ~~program in which the applicant was most recently enrolled.~~

9 ~~4. That the applicant has no material restrictions on or past discipline~~  
10 ~~involving a license to practice medicine and surgery that was issued to the applicant~~  
11 ~~in any other jurisdiction.~~

~~\*\*\*NOTE: Does this mean to say that, if a licensee is from another state, he or she~~  
~~may never be licensed in Wisconsin if he or she has ever had any past discipline? NO~~

12 (b) Except as provided in par. (d), an applicant for a license to practice medicine  
13 and surgery who is a graduate of a foreign medical school must supply evidence  
14 satisfactory to the board of all of the following:

15 1. That the applicant is a graduate of and possesses a diploma from a foreign  
16 medical school credentialed by an agency accepted by the board.

17 2. That the applicant has obtained certification by the Educational Council for  
18 Foreign Medical Graduates or a successor organization.

19 3. That the applicant has passed all steps of the United States Medical  
20 Licensing Examination administered by the National Board of Medical Examiners  
21 and the Federation of State Medical Boards, or their successor organizations.

22 4. That the applicant has successfully completed 24 months of postgraduate  
23 training in one or more programs accredited by the Accreditation Council for  
~~the last 12 months of which must be in a single program~~  
~~and received credit for~~

1 Graduate Medical Education or the American Osteopathic Association or a successor  
2 organization.

\*\*\*\*NOTE: Does this mean that, without a waiver under par. (c), foreign grads won't be able to obtain any type of license until they complete their second year of residency? (As currently drafted, I believe the resident educational license would not be available to foreign grads.) Let me know if this is incorrect, or if the resident educational license provision should be modified to make it available to foreign grads. **FMGs will be able to get REL**

3 ~~5. That the applicant is in good standing with the postgraduate training~~  
4 ~~program in which the applicant completed the training under subd. 4. or, if the~~  
5 ~~applicant completed the training in more than one program, that the applicant is in~~  
6 ~~good standing with the program in which the applicant was most recently enrolled.~~

7 ~~6. That the applicant has no material restrictions on or past discipline~~  
8 ~~involving a license to practice medicine and surgery that was issued to the applicant~~  
9 ~~in any other jurisdiction.~~

\*\*\*\*NOTE: Does this mean to say that, if a licensee is from another jurisdiction, he or she may never be licensed in Wisconsin if he or she has ever had any past discipline?

10 (c) The board may promulgate rules specifying circumstances in which the  
11 board, in cases of hardship or in cases in which the applicant possesses a medical  
12 license issued by another jurisdiction, may grant a waiver from any requirement  
13 under par. (a) or (b). The board may grant such a waiver in accordance with those  
14 rules.

15 (d) An applicant for a resident educational license under s. 448.04 (1) (bm) shall  
16 provide the board with all of the following:

17 1. Written confirmation from ~~the medical school or other~~ institution sponsoring  
18 the postgraduate training program in which the applicant is enrolled confirming  
19 ~~or will be~~  
that the applicant has been appointed to a position in the program.

20 ~~2. Evidence that the applicant is a U.S. citizen or is otherwise lawfully entitled~~  
21 ~~to work in the United States.~~

1           **SECTION 6.** 448.05 (6) (a) of the statutes is amended to read:

2           448.05 (6) (a) Except as provided in pars. (am) ~~and~~, (ar), and (at), the board  
3 shall examine each applicant it finds eligible under this section in such subject  
4 matters as the board deems applicable to the class of license or certificate which the  
5 applicant seeks to have granted. Examinations may be both written and oral. In lieu  
6 of its own examinations, in whole or in part, the board may make such use as it deems  
7 appropriate of examinations prepared, administered, and scored by national  
8 examining agencies, or by other licensing jurisdictions of the United States or  
9 Canada. The board shall specify passing grades for any and all examinations  
10 required.

11           **SECTION 7.** 448.05 (6) (at) of the statutes is created to read:

12           448.05 (6) (at) When examining an applicant for a license to practice medicine  
13 and surgery under par. (a), the board may only use examinations prepared,  
14 administered, and scored by national examining agencies, except that the board may  
15 interview an individual applicant as needed to determine information specific to that  
16 applicant.

17           **SECTION 8. Initial applicability.**

18           (1) The treatment of section 448.05 (6) (a) and (at) of the statutes first applies  
19 to an applicant who is admitted to examination for a license to practice medicine and  
20 surgery by the medical examining board under section 448.05 (2) of the statutes, as  
21 affected by this act, on the effective date of this subsection.

22           (2) The treatment of section 448.05 (2) of the statutes first applies to an  
23 application for a license to practice medicine and surgery under section 448.05 (2) of  
24 the statutes, as affected by this act, that is received by the medical examining board  
25 on the effective date of this subsection.

**SECTION 9. Effective date.**

(1) This act takes effect on the first day of the 12th month beginning after publication.

**(END)**

**Visiting Professor:**

Current: 448.04 1b2 "noteworthy professional attainment"

Emulate Nevada NRS 630.2645 - Restricted license for graduate of foreign medical school to teach...

...See handout...

414-418-5007  
Dr. Westlake

**Duchek, Michael**

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**From:** Duchek, Michael  
**Sent:** Tuesday, December 10, 2013 3:47 PM  
**To:** 'Timothy Westlake'  
**Subject:** RE: Physician licensure draft

I'm usually out between 12-1, but otherwise you can come by if you want, let me know what time. I will be here until 4.

-Mike

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**From:** Timothy Westlake [mailto:[richele.westlake@gmail.com](mailto:richele.westlake@gmail.com)]  
**Sent:** Tuesday, December 10, 2013 1:50 PM  
**To:** Duchek, Michael  
**Subject:** Re: Physician licensure draft

I'm in madison tomorrow for the Med Exam Bd meeting--I could get ahold of or even meet you after, or if the timing isn't right, I am off friday. Let me know what works best for you.

Thanks, Tim  
414 418-5007

(Please use the [timothy.westlake@gmail.com](mailto:timothy.westlake@gmail.com), I sent the previous email from my wife's account)

On Dec 10, 2013, at 1:03 PM, Duchek, Michael wrote:

I have a meeting at 2 PM that may take a bit, so I wouldn't have a lot of time today, but I would have time the rest of this week. Would something later in the week work?

Looks like you replied from a different email so I will reply to both.

-Mike

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**From:** Timothy Westlake [mailto:[richele.westlake@gmail.com](mailto:richele.westlake@gmail.com)]  
**Sent:** Tuesday, December 10, 2013 12:56 PM  
**To:** Duchek, Michael  
**Subject:** Re: Physician licensure draft

Mike-

Thank you so much for contacting me. I'd like to send you some of the additional info from the nevada statutes on the visiting professor license and also on a new category of an administrative license. I've included the nevada sections below. -----

**NRS 630.259 License as administrative physician.**

1. A person may apply to the Board to be licensed as an administrative physician if the person meets all of the statutory requirements for licensure in effect at the time of application except the requirements of paragraph (d) of subsection 2 of NRS 630.160.

2. A person who is licensed as an administrative physician pursuant to this section:

- (a) May not engage in the practice of clinical medicine; → = med & surgery, vs.
- (b) Shall comply with all of the statutory requirements for continued licensure pursuant to this chapter; and
- (c) Shall be deemed to hold a license to practice medicine in an administrative capacity only.

(Added to NRS by 2003, 1884; A 2005, 2515)

→ as a physician

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**NRS 630.2645 Restricted license for graduate of foreign medical school to teach, research or practice medicine at medical research facility or medical school; expiration, renewal and modification of restricted license.**

*Restricted license for visiting physicians*

1. Except as otherwise provided in NRS 630.161, the Board may issue a restricted license to teach, research or practice medicine to a person if:

*not distinguished yet*

(a) The person:

(1) Submits to the Board:

- (I) Proof that the person is a graduate of a foreign medical school, as provided in NRS 630.195;
- (II) Proof that the person teaches, researches or practices medicine outside the United States; and
- (III) Any other documentation or proof of qualifications required by the Board; and

(2) Intends to teach, research or practice medicine at a medical facility, medical research facility or medical school in this State.

(b) Any other documentation or proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A person who applies for a restricted license pursuant to this section is not required to take or pass a written examination concerning his or her qualifications to practice medicine.

3. A person who holds a restricted license issued pursuant to this section may practice medicine in this State only in accordance with the terms and restrictions established by the Board.

4. If a person who holds a restricted license issued pursuant to this section ceases to teach, research or practice medicine in this State at the medical facility, medical research facility or medical school where the person is employed:

(a) The medical facility, medical research facility or medical school, as applicable, shall notify the Board; and

(b) Upon receipt of such notification, the restricted license expires automatically.

5. The Board may renew or modify a restricted license issued pursuant to this section, unless the restricted license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a restricted license to an applicant in accordance with any other provision of this chapter.

7. A restricted license to teach, research or practice medicine may be issued, renewed or modified at a meeting of the Board or between its meetings by the President and the Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

(Added to NRS by 2007, 3041; A 2007, 1822; 2013, 2014)

Are You available to talk to today? We'd love to get this bill out this session.

Thanks-  
Tim Westlake

On Dec 9, 2013, at 3:40 PM, Duchek, Michael wrote:

Dr. Westlake,

AJ in Rep. Severson's office told me I could contact you regarding the physician licensure draft. So, please see the following questions/notes regarding the markup I got on LRB-2237/P2, which I understand was reviewed by the Medical Examining Board Licensing Committee:

1. Note that, due to the language indicated to be removed on page 3, lines 10-11, I will take out Section 1 (448.015 (4) (am) 4.) of the draft. OK? *yes*
2. On page 3, line 1 – I assume "in the state" here means Wisconsin. Correct? *getting rid of this*
3. On page 3 it says repeal s. 448.04 (1) (c) for temporary educational permits. I just thought I would ask if there are any of these TEPs currently in effect. If so, can those permits that are still in effect when the bill is passed remain in effect (and can they be further renewed)? If there aren't any of these, this probably doesn't matter. *grandfather or they could get REL*
4. On page 6, it says FMGs will be able to get REL (resident educational license). But an REL requires (page 2, line 13) a degree from an LCME- or AOA-approved school. Don't these organizations only accredit *domestic* schools? If so, what requirements should apply in order to grant a foreign medical school grad an REL? I may be misunderstanding something here... *See changes. yes*
5. On the last page, there's a reference to s. 448.04 (1) (b) 2. Did you want me to wipe out this provision and try to conform it to the Nevada statute? *The page also referenced a handout, which I don't have. Is that something I need?* Regarding this provision, see also the reference at s. 448.065 in current law and let me know if anything needs to be done with that provision. *see attached*
6. It occurred to me that we didn't have anything in the bill that specifically addresses grandfathering, meaning that current licensees would be able to keep, and continue to renew indefinitely, their licenses. Assuming you want to let



those physicians continue to keep their licenses, I would suggest I add something explicitly providing for that. Is that OK, or do you have any specific instructions in that regard? *Grandfather.*

Thanks a lot,

**Mike Duchek**  
**Legislative Attorney**  
**Wisconsin Legislative Reference Bureau**  
**(608) 266-0130**